

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
ZONING TEXT AMENDMENT REPORT FZTA-10-04  
NORTH FORK SETBACKS AND TEMPORARY STRUCTURES  
NOVEMBER 23, 2010**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by the North Fork Land Use Advisory Committee for an amendment to the text of the Flathead County Zoning Regulations. The proposed amendment would require temporary structures to abide by the setbacks established from public roads and bodies of waters in the North Fork zoning district.

The Flathead County Planning Board will conduct a public hearing on the proposed text amendment on December 8, 2010 in the 2<sup>nd</sup> Floor Conference Room of the Earl Bennett Building located at 1035 1<sup>st</sup> Avenue West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed amendment at a date and time yet to be determined. Documents pertaining to the text amendment are available for public inspection in the Flathead County Planning and Zoning Office, Earl Bennett Building, 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the text amendment will also be available for public inspection in the Flathead County Clerk and Records Office, 800 South Main Street, in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Land Use Advisory Committee/Council**

The proposed amendment impacts the advisory area of the North Fork Land Use Advisory Committee (NFLUAC). On August 7, 2010 the NFLUAC held a public meeting to finalize the language for the proposed amendment. The Committee voted unanimously in favor of the proposed language, and to submit an application for a zoning text amendment to the Flathead County Planning and Zoning Office. Because the Committee created the amendment and meetings are not typically held in winter months, the Committee Chair decided not to hold a meeting to review the staff report and recommendation.

**B. Planning Board**

The Flathead County Planning Board will hold a public hearing on the proposed text amendment on December 8, 2010 at 6:00 PM in the 2<sup>nd</sup> floor conference room of the Earl Bennett building; during this time the Planning Board will make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board's discussion and recommendation.

**C. Commission**

The Flathead County Commissioners will hold a public hearing on the proposed text amendment on a date to be determined. This space is reserved for a summary of the Commission's discussion and decision.

## **II. GENERAL INFORMATION**

### **A. Application Personnel**

#### **i. Applicant**

North Fork Land Use Advisory Committee (NFLUAC)

#### **ii. Technical Assistance**

N/A

### **B. Section(s) Proposed for Amendment**

The proposal would amend Section 3.40.040(2) of the Flathead County Zoning Regulations (FCZR), as well as add add a new definition (as #6) under Section 3.40.050 FCZR.

### **C. General Character of and Reason for Amendment**

In the late winter of 2009, a zoning violation for a shed placed in the 150 foot setback required along the North Fork Road was submitted to the Planning and Zoning Office. During a site visit staff was able to determine the structure in question was set on skids, and did not appear to have a permanent attachment to the ground. Staff communicated to the person submitting the violation that a building placed on skids and that does not have a permanent attachment to the ground is not considered a permanent structure and does not need to conform to the setbacks. The reason a shed is not considered a structure is based on a string of definitions in the zoning regulations.

The definition of ‘setback’ found in Section 7.18.045 FCZR is *“the horizontal distance required between the right-of-way or property line, whichever is closest, and the building line.”* The question in this situation isn’t what a setback is, but what a building is. The definition for a building found in Section 7.03.070 FCZR is *“any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattel. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.”* The definition of a building begins with the words *“any structure,”* which leads to Section 7.18.200 FCZR and the definition of ‘structure’. Accordingly, a structure is defined as *“a combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground including buildings and signs. Not included are residential fences less than six feet in height, retaining walls, rockeries and similar improvements of a minor character less than three feet in height.”* A shed placed on skids, having no permanent attachment to the ground and able to be moved does not meet the definition of a structure. Because it is not a structure it does not meet the definition of a building in Section 7.03.070 FCZR, and therefore does not need to comply with setbacks as defined in Section 7.18.045. This interpretation of the regulations has been established by the zoning administrator and, until such time it is appealed to the Board of Adjustments, will continue to be interpreted in the same way by staff.

This interpretation was eventually communicated to the members of the North Fork Land Use Advisory Committee (NFLUAC), who contacted planning staff to communicate this was not how they understood the regulations. To the members of the NFLUAC, the intent of the setbacks from roads and waterways in the North Fork Zoning District was always to include temporary structures. The NFLUAC asked staff if there was anything they could do to restore the original intent of the regulations, to which staff responded that a zoning text amendment to the North Fork zoning district would be the appropriate method to do so.

During the summer of 2009, the NFLUAC began investigating how best to address the issue. In September of 2009, a member of the NFLUAC and planning staff met to discuss potential concepts. Staff's original suggestion was to address the issue of temporary structures and setbacks through the conditional use permitting process. The NFLUAC held a meeting in October of 2009 regarding this subject, during which time staff's suggestion was deliberated alongside another concept, brought forth by a member of the land use advisory committee. This second concept was referred to as the "two-step approach", which included the proposed definition of a temporary structure and the addition of "temporary structure" to the development standards outlined in the North Fork zoning district. No decisions were made at this meeting.

In August of 2010, the NFLUAC met again to discuss the issue. The NFLUAC first discussed whether temporary buildings should or should not be allowed within the setback. Following discussion, the NFLUAC decided that the original intent of the zoning was that all buildings, temporary or permanent, should not be allowed within the setback. As a result, staff's suggestion to allow temporary structures on a conditional basis was dropped. The committee subsequently focused on the second proposed option, the "two-step approach". Following discussion, this "two-step approach" was voted on and approved unanimously.

Important to note is the proposed amendment's applicability to *only* the North Fork zoning district. Given the unique nature of the district, its remote rural character and reason behind requiring such a large setback from roads and water features, the NFLUAC and staff felt it was appropriate that temporary structures to be dealt with specific to the district rather than modifying the existing definition(s) for "structure" [Section 7.18.200] or "temporary" [Section 7.19.010] of the zoning regulations. Other zoning districts including Little Bitterroot Lake (LBL), Hubbart Dam (HD), Ashley Lake (AL) and Labrandt/Lindsey Lane (LL) have definitions specific to each district, for further clarification and to address development goals or circumstances unique to these areas of the County.

#### **D. Proposed Amendment(s):**

The proposed amendment, referred to as the "two-step approach," would amend two sections of the North Fork Zoning District (see Figure 1 for the boundaries of the district). The first amendment would prohibit temporary structures within the setback. The second amendment would create a new definition specific to the North Fork zoning district defining what a temporary structure is.

The two amendments are listed below, with all changes highlighted in grey, any language added represented *italics*, and any language deleted represented with a ~~strike through~~. The sections proposed to be amended are 3.40.040(2) and 3.40.050(6).

3.40.040 Development Standards

1. Minimum lot size: No lot or tract smaller than 20 acres can be created.
2. Setbacks of new buildings *and temporary structures* from public roadways and waterways:
  - a. River, stream or lake (lakes over 20 ac.): 150 ft from high water line
  - b. North Fork Road: 150 ft. from R/W line
  - c. Other public roads: 100 ft. from R/W line

3.40.050 Definitions:

The definitions of terms used in these regulations are to be those used in the Flathead County Zoning Regulations except for terms which have a specific definition set forth below. Those definitions stated below shall only apply to this Zoning District.

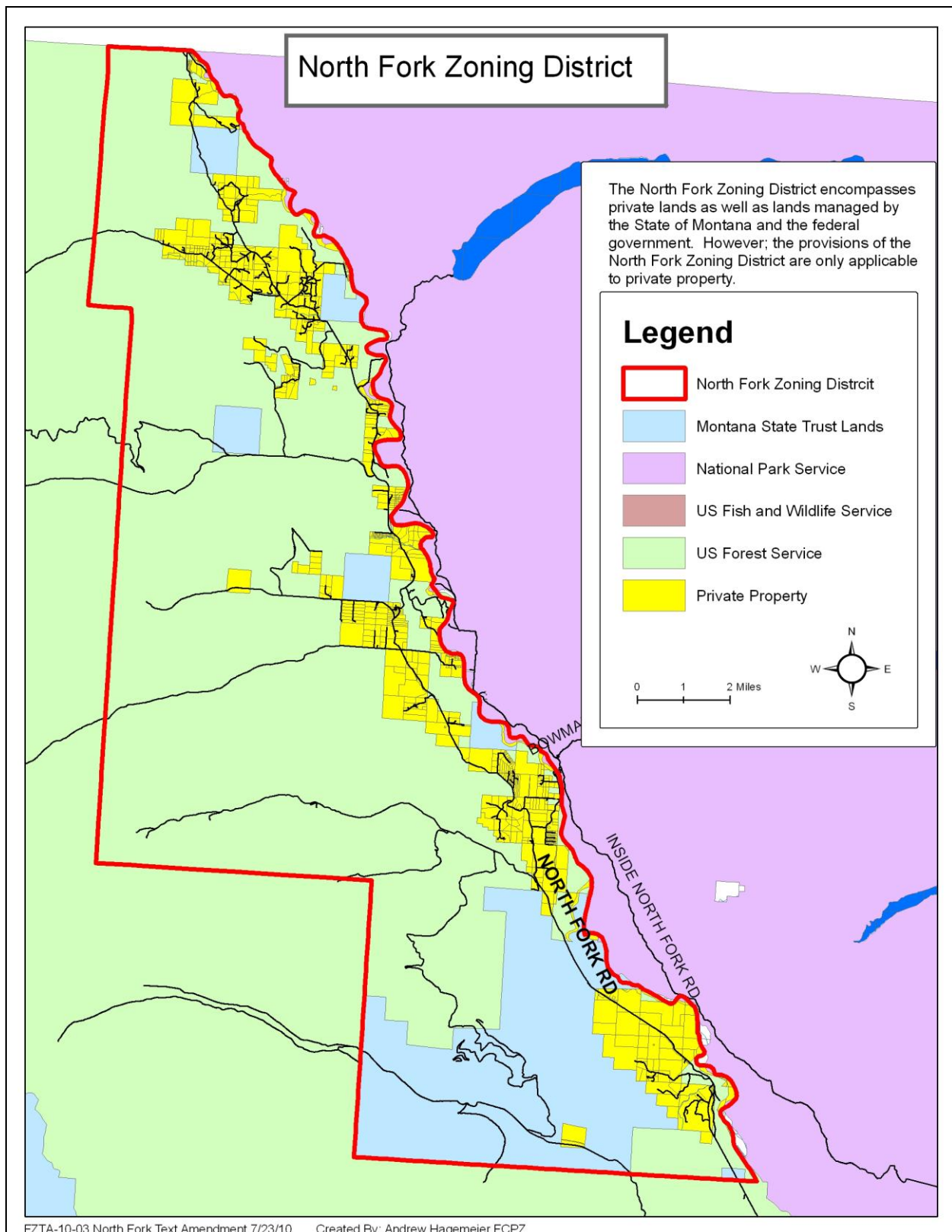
1. GUEST CABINS: A detached structure being an accessory to a single-family dwelling, which may or may not have cooking facilities and/or bathroom facilities. If a guest cabin is rented, it shall be deemed as a rental cabin and subject to density requirements placed upon rental cabins in this zoning district.
2. RECREATIONAL VEHICLE AND CAMPING (PRIVATE USE): The placement of a recreational vehicle or tent on a parcel of land that may or may not contain an existing residence for the private, non-commercial use of the landowner or a guest.
3. RENTAL CABIN: Rental cabins may be built at a density of one for each five acres of contiguous property owned. For example, a person owning 20 acres can have four rental cabins in addition to the main residence. One rental cabin is allowed per tract of record regardless of acreage (Lots less than 5.0 acres in size). Standards are the same as those outlined for a guest cabin. A deed restriction shall be placed on qualifying property by landowners when two or more rental cabins are built and placed in service.

The purpose of the deed restriction is to inform future owners of the property of the rental cabin density allocation that has been used or to provide an additional mechanism to insure compliance with the rental cabin density in the event of subdivision of the parent tract.

4. RESIDENTIAL BUSINESS: Any use conducted entirely within the dwelling, accessory buildings or outbuildings and carried on by a landowner, members of the landowner's immediate family and up to five non-family employees.

5. RESIDENTIAL BUSINESS WITH MORE THAN FIVE EMPLOYEES:  
A Residential Business that employs more than five non-family members for its operation.
6. *TEMPORARY STRUCTURE: An enclosure with a roof or other protective cover that does not have or require a permanent attachment to the ground and that is used or can be used for the housing, shelter or storage of any person, animal or chattel. An operable, licensed motor vehicle shall not be considered a temporary structure.*

**Figure 1:** The boundaries of the North Fork Zoning District.



#### **E. Criteria Used for Evaluation of Proposed Amendment:**

Amendments to the text of the Flathead County Zoning Regulations are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

#### **F. Compliance With Public Notice Requirements:**

Legal notice of the Planning Board public hearing was published in the Daily Interlake on November 21, 2010. Following the Planning Board public hearing on December 8, 2010, notice of the Commissioner's public hearing will be published in the Daily Interlake once a week for two weeks and will be posted at least 45 days prior to the Commissioners' public hearing in 5 locations within the North Fork Zoning District. All methods of public notice will include information on the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning text amendment.

#### **G. Agency Referrals**

Referrals for comment on the proposed zoning map amendment were sent to the following agencies on October 29, 2010:

- Flathead County Road & Bridge Department
  - Reason sent: Responsible for maintenance on the North Fork Road.
- Glacier National Park
  - Reason sent: Proximity to Glacier National Park.
- Flathead National Forest
  - Reason sent: Proximity to the Glacier View Ranger District.
- Montana Fish Wildlife and Parks
  - Reason sent: The amount of critical wildlife habitat in the North Fork.
- United States Fish and Wildlife Service
  - Reason sent: The presence of wildlife habitat within the North Fork with Endangered Species Act protections.
- Montana Department of Natural Resources and Conservation
  - Reason sent: Proximity to the Coal Creek State Forest.

### **III. COMMENTS RECEIVED**

#### **A. Public Comments**

As of 5:00 PM on November 23, 2010, no public comments have been received. Any comments received after the completion of the staff report will be summarized and distributed directly to the appropriate boards at the time of their meeting.

## **B. Agency Comments**

As of 5:00 PM on November 23, 2010, three agency comments have been received. Any comments received after the completion of the staff report will be summarized and distributed directly to the appropriate boards at the time of their meeting.

- Dave Prunty; Flathead County Road and Bridge Department
  - Comment: The Road Department would agree the modifications would be beneficial.
- Chas Cartwright, Superintendent; National Park Service, Glacier N.P.
  - Comment: Glacier National Park fully supports zoning changes that would lessen the visual impact of development, both from outside the park looking east into the park, and from inside the park looking west into the North Fork valley; this amendment would lessen the visual impact of temporary structures by moving them back a set distance from roadways and property lines.
  - Additionally, setbacks would reduce the amount of developable space while protecting waterway edges; [studies cited] show increased development and impacts to water quality as threats to wildlife and water resources in the North Fork of the Flathead River Valley.
  - This amendment serves to maintain the level of development allowed by the North Fork zoning district.
- Mark Deleray & Tim Thier; Montana Fish, Wildlife and Parks
  - Comment: Montana Fish, Wildlife and Parks have no comment regarding the North Fork Zoning District.

## **IV. EVALUATION OF PROPOSED AMENDMENT**

### **A. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

#### **i. Whether the proposed text amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

##### **Neighborhood Plan Review**

The North Fork Neighborhood Plan was originally adopted in 1987 and was amended in 1992 and 2008. The plan provided the basis for the North Fork Zoning District. Below is a list and discussion of goals and policies taken from the North Fork Neighborhood Plan that may be relevant to this proposal.

*GOAL 2: To maintain the remote undeveloped qualities unique to the North Fork.*

In most zoning districts throughout Flathead County, setbacks from roads are generally 20 feet. The benefit of having larger setbacks from roads, like the setbacks in the North Fork zoning district, is that the separation softens the presence of the buildings and reduces impacts from traffic related dust and noise.



In some areas of the county, having a large profile along the roadway is important; this is especially true in general business areas like Evergreen, or in town centers like Bigfork or Lakeside. In other areas of the county, such as urban or suburban residential areas, it is more in line with the character of the area for structures to be set back a minimum 20 feet from the right of way of the road, to protect new construction from dust and/or limit the intrusion of traffic noise. However, the North Fork zoning district requires buildings to be set back further from the road than other districts, to mitigate the effects of new construction along the roadway by maintaining the remote, undeveloped qualities of the area. The proposed text amendment is supported by Goal 2 of the North Fork Neighborhood Plan.

*GOAL 3: To maintain and enhance the pristine water and air quality found in the North Fork.*

*Policy 3.1 New buildings should be set back from rivers, lakes, and streams by 150 feet from the high water line.*

The proposed text amendment would also prohibit temporary structures in the setbacks from waterways.

*Goal 4: To Preserve and Enhance the Scenic Values of the North Fork.*

*Policy 4.9 Development of all new buildings should be set back 150 feet from the North Fork Road and 100 feet from other public roads.*

The proposed text amendment would be an implementation of this policy in the North Fork Neighborhood Plan.

### **Growth Policy Review**

According to 76-2-203 (1) and 76-2-203(a), M.C.A. zoning regulations must be made in accordance with an adopted growth policy.

The Implementation Plan found in the Flathead County Growth Policy Appendix C identifies how policies are to be implemented, separating them into categories based on implementation strategy. The categories are:

*Policy:* A specific but non-regulatory statement that directly guides a community towards meeting an established goal regarding the promotion of public health, safety, welfare and efficiency in the process of community development. Growth-related policies are frequently directly implemented with regulatory mechanisms.

*Action Item:* A statement providing guidance for future planning efforts and requiring a follow-up action such as creation of a subsequent, more detailed plan or educational outreach effort. Implementation of an action item (i.e. creation of an additional plan) can result in detailed policies regarding a specific issue.

*Neither:* The *policy* category, as stated in the Flathead County Growth Policy, does not provide specific guidance for growth or direction for future planning efforts.

Below is a list of policies that are listed as “Policy” in the implementation plan, which may be implemented through the use of zoning and may be relevant to this proposal. The proposed text amendment is not in conflict with any goal or policy within the Growth Policy.

*P.36.6 Support non-point source pollution reduction within the Flathead Basin watershed.*

There are four regulatory mechanisms adopted by Flathead County that establish some sort of setback from waterways. The first is the Flathead County Subdivisions Regulations which requires a site specific analysis of the subject property and is only applicable when property goes through subdivision review. The second is through the Lake and Lake Shore Protection Regulations which only apply to lakes over 5 acres in size. The third is through zoning regulations which utilize setbacks; however, in the North Fork setbacks only apply to permanent structures. The last regulatory mechanism is found in the floodplain regulations.

In the North Fork, the only mechanism applicable is zoning unless a property is to go through subdivision review. The Federal Emergency Management Agency (FEMA) has not mapped the floodplain for this area. In areas where floodplains have been mapped by FEMA, floodplain permits may be required depending upon the structure to be built and the location’s chance of flooding. Floodplain permits are intended to protect private property and water quality. In the North Fork, this regulatory system is not currently available. A structure that does not require a septic permit, like a shed, could be built in areas subject to flooding. The proposed text amendment would require all structures, including those that are temporary, to be at least 150 feet from water bodies giving some protection to the property and the water body itself.

**Finding #1-** The proposed text amendment is made in accordance with the North Fork Neighborhood Plan because it is consistent with the goals and polices of the North Fork Neighborhood Plan and specifically implements polices 3.1 and 4.9.

**Finding #2-** The proposed text amendment is made in accordance with the Flathead County Growth Policy because it is supported by Policy 36.6 and is not in conflict with any other goals and policies.

**ii. Whether the proposed text amendment is designed to:**

**1. Secure safety from fire and other dangers;**

The proposed text amendment is not designed to secure safety from fire. Locating temporary structures within 150 feet of the North Fork Road and water bodies or 100 feet from other public roads would have no impact on safety from fire. However; setbacks from water bodies are intended to protect the property from dangers such as flooding and bank erosion, as well as protect water quality.

**Finding #3-** The proposed text amendment is designed to promote safety because setbacks from water bodies can help protect private property from flooding and bank erosion.

**2. Promote public health, public safety, and general welfare;**

As discussed in item A.i. of this report, floodplains in the North Fork have not been mapped by FEMA. Because the floodplain is unmapped, the area is not subject to the Flathead County Floodplain Regulations. Environmental Health does require site specific evaluations be done to determine if a septic system is proposed in an area with the potential to flood, but a similar review is not completed when locating structures. The North Fork zoning regulations do require permanent structures be setback from water bodies by 150 feet. This offers some protection to property from flooding. Prohibiting temporary buildings from being placed within 150 feet from water bodies would help protect private property and would therefore benefit the general welfare. Additionally, there would be a public health benefit in locating structures away from gravel roads that create excessive amounts of dust, as the North Fork Road is prone to do.

**Finding #4-** The proposed text amendment is designed to promote public health, safety and general welfare because the North Fork is not subject to floodplain regulations and setbacks for temporary structures from water bodies would help protect private property; and because requiring all structures be set back from the roadway would limit residents' exposure to dust and particulate, generally improving the health and welfare of those individuals living adjacent to the North Fork Road.

**3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**

The Flathead County Road and Bridge Department has had some issues with private property placed too close to the roadway being damaged by plow equipment in other parts of the county. There is the potential for this to occur in the North Fork with temporary structures. The Flathead County Road and Bridge Department has supported this application. Besides roads, public facilities are limited in the North Fork. The proposed text amendment would not have an impact on other forms of public facilities

**Finding #5-** The proposed text amendment is designed to facilitate the adequate provision of transportation because temporary structures setback from public roads are less likely to be damaged by plow equipment.

**iii. In evaluating the proposed text amendment(s), consideration shall be given to:**

**1. The reasonable provision of adequate light and air;**

According to the North Fork Neighborhood Plan, dust is of a major concern. Dust in the North Fork is primarily generated by traffic on gravel roads. The distance buildings are set back from the road would have no impact on the

amount of dust produced, but would benefit the building and its contents by subjecting it to less dust.

**Finding #6-** The proposed text amendment would help to ensure the provision of adequate light and air because although the distance buildings are setback from roads will not generate additional dust, increased setbacks may serve to enhance air quality for the residents of the structures.

**2. The effect on motorized and non-motorized transportation systems;**

The Flathead County Road and Bridge Department has had issues in other parts of the county with private property placed too close to the road being damaged by plow equipment. When this occurs, the county could end up being responsible for damage to the private property. The proposed text amendment could prevent this from happening in the North Fork. The Road and Bridge Department supports this application.

Private lands in the North Fork are almost entirely surrounded by Glacier National Park and the Flathead National Forests. The park and the forest both have an extensive trail network. The trail network will not be impacted by the proposed text amendment.

**Finding #7-** The proposed text amendment has given consideration to motorized and non-motorized transportation because temporary structures setback from roads are less likely to be damaged by plow equipment and non-motorized transportation systems would not be impacted by the proposal.

**3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

The North Fork Zoning District is located in a remote area of Flathead County. The nearest municipality is the City of Whitefish over 14 miles by air across the Whitefish Range and the Flathead National Forest. The City of Columbia Falls is located over 16 air miles to the south also separated by the southern end of the Whitefish Range and the Flathead National Forest. Because of the distances separating the North Fork from the nearest municipalities, the proposed text amendment is not likely to have an impact on urban growth.

**Finding #8-** The proposed text amendment will not have an impact on compatible urban growth in the vicinity of cities and towns because the zoning district is in a remote area of Flathead County and not in the proximity of any incorporated areas.

**4. The character of the district(s) and its peculiar suitability for particular uses;**

The North Fork Neighborhood Plan states the area is “*a wide open, uncrowded place, with pristine water, clean air, dark night skies, abundant wildlife, quiet and solitude with incredible scenic vistas are values residents of the North Fork hold dear.*” The purpose of the setbacks from roads and streams was to keep the character of the district as rural, or remote, as

possible. The closer buildings are to the road, the greater presence they have to the person traveling that roadway. When buildings are setback 100 to 150 feet, the presence is less obvious, thus preserving the remote character of the district. As discussed by the NFLUAC, the intent of the regulations was for all buildings to be setback, not just permanent structures.

Minimum lot size in the North Fork for new lots is 20 acres. A setback of 100 or 150 feet for temporary structures from a public roadway or water body would not be burdensome to landowners. It is important to note there were many lots created prior to the adoption of the North Fork Zoning Regulations. This has been taken into consideration in the regulations. Section 3.40.040 (3) FCZR states *“Any existing lot or tract which cannot meet these setbacks because of size or topographic limitations will be given a variance.”* This section protects the right of smaller landowners to have a temporary structure which gives consideration for the peculiar suitability for particular uses.

**Finding #9-** The proposed text amendment would promote the character of the district and its peculiar suitability for particular uses because setbacks for temporary buildings will soften the presence of buildings along public roadways but will not deprive property owners the right to place temporary structures on lots that cannot meet the regulation based on size or topography.

**5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

The intent of the neighborhood plan is to promote development in a manner that does not jeopardize the values of the North Fork residents and landowners, as reflected in the vision and goals of the Plan itself. A rural development pattern that preserves natural scenery and open spaces has been identified in the plan as the most appropriate use of land in the zoning district. The plan recommends, and the zoning district codifies, large lot residential and limited commercial development that is compatible with the area. More specifically, the plan recommends prohibiting buildings physically adjacent to roads and streams. According to public input at the August 7, 2010 NFLUAC meeting, the intent of the setbacks to roads and streams included all buildings and the reason temporary buildings were not included in the setbacks was a result of how the Planning Office interpreted the regulations. Based on this interpretation, the NFLUAC took it upon themselves to clearly define the intent of the regulations through the proposed text amendment. Because of the North Fork’s remote location, rural character and the unique reasons for such a large setback requirement, the NFLUAC felt it was appropriate to request a zoning text amendment specific to the North Fork zoning district, as opposed to a general text amendment applicable to the all zoning districts within the County. Furthermore, the landowners who could not meet the setbacks for temporary structures because of small lot size or topography would be protected by Section 3.40.040(3) FCZR.

**Finding #10-** The proposed text amendment would conserve the value of buildings and encourage the most appropriate use of land throughout the

jurisdictional area because a rural development pattern preserving scenery and open spaces has been identified as the most appropriate use of land, comments made at the August 7, 2010 NFLAUC indicate the original intent of the regulations was that temporary structures would be prohibited in the setback, and value of property would be conserved because landowners who could not meet the setbacks for temporary structures because of small lot size or topography would be protected by Section 3.40.040(3) FCZR.

**iv. Whether the proposed text amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.**

The North Fork Zoning District is located in a remote area of Flathead County. The nearest municipality is the City of Whitefish over 14 miles by air across the Whitefish Range and the Flathead National Forest. The City of Columbia Falls is located over 16 air miles to the south also separated by the Whitefish Range and the Flathead National Forest. There are no nearby municipalities.

**Finding #11-** The proposed text amendment will not have an impact on zoning ordinances of nearby municipalities because the zoning district is in a remote area of Flathead County and there are no nearby municipalities.

**V. SUMMARY OF FINDINGS**

**Finding #1-** The proposed text amendment is made in accordance with the North Fork Neighborhood Plan because it is consistent with the goals and policies of the North Fork Neighborhood Plan and specifically implements policies 3.1 and 4.9.

**Finding #2-** The proposed text amendment is made in accordance with the Flathead County Growth Policy because it is supported by Policy 36.6 and is not in conflict with any other goals and policies.

**Finding #3-** The proposed text amendment is designed to promote safety because setbacks from water bodies can help protect private property from flooding and bank erosion.

**Finding #4-** The proposed text amendment is designed to promote public health, safety and general welfare because the North Fork is not subject to floodplain regulations and setbacks for temporary structures from water bodies would help protect private property; and because requiring all structures be set back from the roadway would limit residents' exposure to dust and particulate, generally improving the health and welfare of those individuals living adjacent to the North Fork Road.

**Finding #5-** The proposed text amendment is designed to facilitate the adequate provision of transportation because temporary structures setback from public roads are less likely to be damaged by plow equipment.

**Finding #6-** The proposed text amendment would help to ensure the provision of adequate light and air because although the distance buildings are set back from roads will not generate additional dust, increased setbacks may serve to enhance air quality for the residents of the structures.

**Finding #7-** The proposed text amendment has given consideration to motorized and non-motorized transportation because temporary structures setback from roads are less likely to be damaged by plow equipment and non-motorized transportation systems would not be impacted by the proposal.

**Finding #8-** The proposed text amendment will not have an impact on compatible urban growth in the vicinity of cities and towns because the zoning district is in a remote area of Flathead County and not in the proximity of any incorporated areas.

**Finding #9-** The proposed text amendment would promote the character of the district and its peculiar suitability for particular uses because setbacks for temporary buildings will soften the presence of buildings along public roadways but will not deprive property owners the right to place temporary structures on lots that cannot meet the regulation based on size or topography.

**Finding #10-** The proposed text amendment would conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area because a rural development pattern preserving scenery and open spaces has been identified as the most appropriate use of land, comments made at the August 7, 2010 NFLAUC indicate the original intent of the regulations was that temporary structures would be prohibited in the setback, and value of property would be conserved because landowners who could not meet the setbacks for temporary structures because of small lot size or topography would be protected by Section 3.40.040(3) FCZR.

**Finding #11-** The proposed text amendment will not have an impact on zoning ordinances of nearby municipalities because the zoning district is in a remote area of Flathead County and there are no nearby municipalities.

## **VI. RECOMMENDATION**

Based on the review of the statutory criteria used to evaluate zoning text amendments and supporting Findings of Fact, staff recommends the Flathead County Planning Board and Board of Commissioners adopt staff report FZTA-10-04 as Findings of Fact and approve the proposed text amendment to the North Fork zoning district.

Planner: DH/AM